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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/656,013	09/07/2000	Russel Dale Cole	SP1042	2278

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09/11/2002

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EXAMINER

HEWITT, JAMES M

ART UNIT

PAPER NUMBER

3679

DATE MAILED: 09/11/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/656,013

Applicant(s)

COLE, RUSSELL

Examiner

James M Hewitt

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 June 2002.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 7-10 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All   b) ☐ Some \*   c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Drawings***

The corrected or substitute drawings were received on 6/13/02. These drawings are acceptable.

### ***Claim Objections***

Claim 7 is objected to because of the following informalities: in line 1, insert "a" before "holder" Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim\*\*\* rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 7 line 2, delete the phrase "for the corner of the object to be held" as a similar recitation is made in lines 4-5.

In claim 7 line 4, it is unclear as to which corner edge "the corner edge" is referring as the object is said to have corner edges.

In claim 7 lines 4-5, the phrase "said holder comprising a corner pocket for the corner edge of the object to be held to a supporting surface for the holder" is awkward

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and confusing. Specifically, the portion "to a supporting surface for the holder" is not understood with respect to the rest of the phrase as it seems to "run-on".

In claim 7 lines 6 and 8, "at least" should be inserted before "three layers" to be in accord with "at least three distinct material layers" in lines 2 and 3.

In claim 7 line 7, "the corner surface" is indefinite. The corner of the object is considered to have more than one surface.

In claim 7 line 9, it is unclear whether "another of said at least three layers" references the third layer or is a layer in addition to the at least three layers.

In claim 7 line 9, the another layer is said to consist of at least one layer. It is unclear how one layer can have more than one layer (at least one layer).

In claim 7 lines 9-10, how can one layer (the another layer) form a pocket, which by definition necessitates at least two layers?

In claim 7 line 10, it is unclear how "an corner object receiving pocket" and "the receiving pocket" (lines 11-12) relate to "a corner pocket" as recited in line 4.

In claim 8, stating that there are at least two holders is in discord with the preamble of claim 8 (and claim 7) which recites a single holder.

In claim 8 lines 2-4, the claim reads as though the different corner is received in the one pocket of the at least two holders. It should be made clear that the one holder in claim 1 receives one corner of the object and a second holder receives a different corner of the object and is spaced from the first holder.

In claim 9 line 10, the third layer is said to consist of at least one layer. It is unclear how one layer can have more than one layer (at least one layer).

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In claim 9 line 11, insert "said" before "first" and replace "an object" with "the object".

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Engel (US 2,068,909) in view of Good (US 4,785,562).

Engel discloses a holder for an object comprising: a holder (see figures 5 and 6) having at least three layers, the first layer (30) having a non-slip surface to engage and bear against the surface of the object (5) to be held, the second layer (10) providing a fastening means and being directly against and held to the supporting surface, and the third layer (20) consisting of at least one layer of a transparent material thus forming a planar object receiving pocket between the third layer and first layer of the holder.

Engel discloses the claimed invention except that the second layer includes a magnetic material. Good teaches using magnets for securing a picture frame or corner piece thereof to a supporting surface. The magnets are fixedly attached to the non-metal picture frame in any suitable fashion. "Any suitable fashion" is considered to include using adhesive. In view of Good's teaching, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Engel with

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magnets as a securing means in order to allow for quicker and easier attachment and detachment, and avoiding the residue commonly associated with adhesives.

With respect to claim 8, wherein there are at least two substantially identical holders spaced from each other and adapted to engage a different corner of the same planar object to be held.

### ***Response to Arguments***

Applicant's arguments filed 6/13/02 have been fully considered but they are not persuasive. Applicant asserts that Engel's second layer (10) does not bear against the supporting surface but bears against the flaps (4). The Examiner disagrees. As shown in figures 5 and 6, the second member (10) is the bottom layer and the upper surface thereof is secured to the underside of flaps (40). This is shown also in figure 1 and explained in column 2 of page 1, lines 23-39. The upper surface of member (1), which is analogous to member (10), is said to be secured to under flaps (4, 4).

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James M Hewitt whose telephone number is 703-305-0552. The examiner can normally be reached on M-F, 930am-600pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynne Browne can be reached on 703-308-1159. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9326 for regular communications and 703-872-9327 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1020.

jmh  
September 6, 2002

  
*Lynne H. Browne*  
*Supervisory Patent Examiner*  
*Technology Center 3620*